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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 THOMAS ABBOTT,

11 Plaintiff,

12 v.

13 BRIAN WILLIAMS, *et al.*,

14 Defendants.
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Case No. 2:08-cv-00065-LDG (RJJ)

ORDER

16 The plaintiff, Thomas Abbott, moves (#33) for an order that the Court clarify its July
17 12, 2010, Order that a negligent supervision claim remains against the State of Nevada ex
18 rel. Nevada Department of Corrections (Nevada). Further noting that all federal claims
19 have been dismissed, Abbott moves, in the alternative, for the Court to decline to exercise
20 its supplemental jurisdiction and dismiss that state law claim without prejudice. Nevada
21 has opposed the motion, though the opposition focuses solely on moving to dismiss the
22 negligent supervision claim with prejudice. The Court will deny Abbott's motions and will
23 not consider Nevada's motion.

24 While Abbott continues to assert that he alleged the negligence claim against both
25 Brian Williams and Nevada, a cursory review of his Amended Complaint establishes that
26 he alleged his second claim for relief against a "Defendant" in the singular. By comparison,

1 Abbott alleged his first claim against the "Defendants" in the plural. Any confusion whether
2 Abbott alleged a claim for negligent supervision against both Williams and Nevada is solely
3 the product of his pleadings. As the Court's July 12, 2010, Order correctly noted the
4 confusion caused by Abbott's pleadings, clarification of that Order is unnecessary.

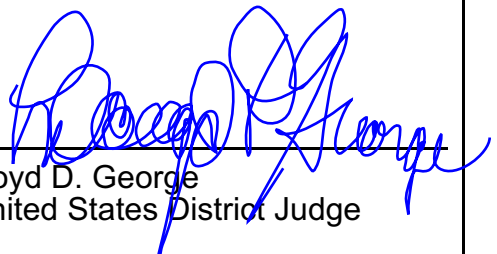
5 In response to Abbott's motion, Nevada has moved to dismiss the negligent
6 supervision claim with prejudice. Such motion sufficiently establishes that Nevada is willing
7 to defend the claim on its merits. This matter has been pending before this Court for more
8 than three years. In the interest of judicial economy, the Court will continue to exercise
9 jurisdiction over the claim. Accordingly, the Court will deny Abbott's motion in the
10 alternative to dismiss the claim without prejudice.

11 The Court further notes that, because Nevada couched its motion to dismiss with
12 prejudice in its response, that motion was not properly docketed. Further, Abbott has not
13 responded to Nevada's motion on the merits. Accordingly, the Court will not consider
14 Nevada's motion to dismiss on the merits. Nevada may renew its motion by filing and
15 correctly docketing such motion, thereby providing Abbott with notice and an opportunity to
16 respond to Nevada's motion on the merits.

17 Therefore, for good cause shown,

18 THE COURT **ORDERS** that Thomas Abbott's Motion to Clarify Order Granting
19 Summary Judgment or, in the Alternative, Motion to Dismiss without Prejudice the
20 Remaining State Law Claim Against Defendant State of Nevada ex. rel. The Nevada
21 Department of Corrections (#33) is DENIED.

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23 DATED this 11 day of March, 2011.

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Lloyd D. George
United States District Judge